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**FILED**  
MAY 31 2012  
RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND

E-filing

9 **UNITED STATES DISTRICT COURT**  
10 **NORTHERN DISTRICT OF CALIFORNIA**

11 JAMES SAYLOR

12 Plaintiff,  
13 vs.

14 DIVERSIFIED COLLECTION  
15 SERVICES, INC.; and DOES 1 – 10,  
16 inclusive.

17 Defendant.

Case No. **C12-02779 NC ADR**

**COMPLAINT AND DEMAND FOR  
JURY TRIAL**

**(Unlawful Debt Collection Practices)**

**Demand Does Not Exceed \$10,000**

18 **COMPLAINT**

19 **INTRODUCTION**

20  
21 1. This is an action for actual and statutory damages brought by plaintiff  
22 James Saylor an individual consumer, against defendant Diversified Collection  
23 Services, Inc., for violations of the Fair Debt Collection Practices Act, 15 U.S.C. §  
24 1692 *et seq.* (hereinafter "FDCPA") and the Rosenthal Fair Debt Collection  
25

1 Practices Act, Cal. Civ. Code §§ 1788 *et seq.* (hereinafter “RFDCPA”), which  
2 prohibit debt collectors from engaging in abusive, deceptive, and unfair practices.

3 **VENUE AND JURISDICTION**

4 2. Jurisdiction of this court arises under 15 U.S.C. § 1692k(d), Cal. Civ.  
5 Code §§ 1788.30, and 28 U.S.C. § 1331 and § 1337. Venue in this District is  
6 proper in that the Defendant transacts business here and the conduct complained of  
7 occurred here.

8 **PARTIES**

9 3. Plaintiff, James Saylor is a consumer, a natural person allegedly  
10 obligated to pay any debt, residing in the state of New Jersey.

11 4. Defendant, Diversified Collection Services, Inc. is a corporation  
12 engaged in the business of collecting debt in this state with its principal place of  
13 business located in Alameda County at 333 North Canyons Parkway, Suite 100,  
14 Livermore, CA 94551. The principal purpose of Defendant is the collection of  
15 debts in this state and Defendant regularly attempts to collect debts alleged to be  
16 due another.

17 5. Defendant is engaged in the collection of debts from consumers using  
18 the mail and telephone. Defendant regularly attempts to collect consumer debts  
19 alleged to be due to another. Defendant is a “debt collector” as defined by the  
20 FDCPA, 15 U.S.C. § 1692a(6), and the Cal. Civ. Code § 1788.2.

21 **FACTS**

22 6. Upon information and belief, within one year prior to the filing of this  
23 complaint, Defendant placed collection calls to Plaintiff, seeking and demanding  
24 payment for an alleged consumer debt owed under an account number.  
25

1           7.    The debt that Defendant is attempting to collect on is an alleged  
2 obligation of a consumer to pay money arising out of a transaction in which the  
3 money, property, insurance or services which are the subject of the transaction are  
4 primarily for personal, family, or household purposes, whether or not such  
5 obligation has been reduced to judgment.

6           8.    Upon information and belief, Defendant began contacting Plaintiff  
7 and placing collection calls to Plaintiff prior to April of 2012.

8           9.    Upon information and belief, within one year of the filing of this  
9 complaint, Defendant utilized unfair and unconscionable means to collect on  
10 Plaintiff's alleged debt by lying to and/or making misleading representations in  
11 connection with an attempt to collect on Plaintiff's alleged debt; threatening to  
12 garnish Plaintiff's wages itself unless a full payment was received, even though  
13 Plaintiff had already let Defendant know that he has not worked in over a year, and  
14 regardless of the fact that it knew that only the creditor could possibly seek to  
15 garnish Plaintiff's wages.

16          10.   Upon information and belief, Defendant mislead Plaintiff, by  
17 demanding payment from Plaintiff in communications that were within the first  
18 thirty days from the first initial communication with Plaintiff without also stating  
19 that Plaintiff still had an opportunity to dispute and/or seek validation for the  
20 alleged debt; overshadowing Plaintiff's rights to dispute and/or seek validation for  
21 the alleged debt.

22          11.   As a result of the acts alleged above, Plaintiff suffered emotional  
23 distress resulting in Plaintiff feeling stressed, amongst other negative emotions

24                           **COUNT I – FDCPA**



1       12. Plaintiff repeats and realleges and incorporates by reference to the  
2 foregoing paragraphs.

3       13. Defendant violated the FDCPA. Defendant's violations include, but  
4 are not limited to, the following:

5           (a) Defendant violated §1692f of the FDCPA by using unfair or  
6           unconscionable means in connection with the collection of an alleged  
7           debt; and

8           (b) Defendant violated §1692e(10) of the FDCPA by using false,  
9           deceptive, or misleading representation or means in connection with  
10          the collection of Plaintiff's alleged debt; and

11          (c) Defendant violated §1692e(2)(B) of the FDCPA by falsely  
12          representing the services rendered or compensation which may be  
13          lawfully received by the Defendant for the collection of the alleged  
14          debt; and

15          (d) Defendant violated §1692e(5) of the FDCPA by threatening to take  
16          action that it did not intend to take.

17       14. As a result of the foregoing violations of the FDCPA, Defendant is  
18 liable to the plaintiff James Saylor for actual damages, statutory damages, and  
19 costs and attorney fees.

20                               **COUNT II - RFDCPA**

21       15. Plaintiff repeats and realleges and incorporates by reference the  
22 foregoing paragraphs.

23       16. Defendant violated the RFDCPA. Defendant's violations include, but  
24 are not limited to the following:

1 (a) Defendant violated §1788.10(e) of the RFDCPA by threatening to  
2 any person that nonpayment of the consumer debt may result in ...  
3 the seizure ... of any property or the garnishment or attachment of  
4 wages of the debtor, unless such action is in fact contemplated by  
5 the debt collector and permitted by the law; and

6 (b) Defendant violated §1788.13(j) of the RFDCPA by falsely  
7 representing that a legal proceeding has been, is about to be, or will  
8 be instituted unless payment of a consumer debt is made; and

9 (c) Defendant violated §1788.17 of the RFDCPA by being a debt  
10 collector collecting or attempting to collect a consumer debt that is  
11 not compliant with the provisions of Sections 1692b to 1692j of  
12 the FDCPA, the references to federal codes in this section referring  
13 to those codes as they read as of January 1, 2001.

14 17. Defendant's acts as described above were done intentionally with the  
15 purpose of coercing Plaintiff to pay the alleged debt.

16 18. As a result of the foregoing violations of the RFDCPA, Defendant is  
17 liable to the plaintiff James Saylor for actual damages, statutory damages, and  
18 costs and attorney fees.

19  
20 WHEREFORE, Plaintiff James Saylor respectfully requests that judgment be  
21 entered against defendant Diversified Collection Services, Inc. for the following:

22 A. Actual damages.

23 B. Statutory damages pursuant to 15 U.S.C. § 1692k.


24 C. Statutory damages pursuant to Cal. Civ. Code § 1788.30.  
25

1 D. Costs and reasonable attorney fees pursuant to 15 U.S.C. § 1692k and Cal. Civ.  
2 Code § 1788.30.

3 E. For such other and further relief as the Court may deem just and proper.  
4

5 Date: May 24, 2012

RESPECTFULLY SUBMITTED,

6 By:   
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13 Attorney for Plaintiff,  
14 James Saylor

15 **DEMAND FOR JURY TRIAL**

16 PLEASE TAKE NOTICE that Plaintiff, JAMES SAYLOR, demands trial  
17 by jury in this action.  
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